



STATE OF WASHINGTON
DEPARTMENT OF INFORMATION SERVICES
Olympia, Washington 98504-2445

May 6, 1996

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Office of the Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

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Dear Sir/Madame:

Please find enclosed an original and 11 copies of the Reply Comments submitted by the Washington State Department of Information Services in CC Docket 96-45, the Universal Service rulemaking proceeding.

If you have any questions, please contact me at (360) 902-3566.

Sincerely,

Sarah Garmire

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of

FCC 96-93

Federal-State Joint Board on
Universal Service

CC Docket No. 96-45

**Reply Comments of the Washington State
Department of Information Services**

The Washington State Department of Information Services (DIS)¹ submits its Reply Comments in response to those portions of the Commission's Notice of Proposed Rulemaking (NPRM) that address the proposed eligibility criteria for educational discounts for schools and libraries. DIS is concerned that the eligibility criteria proposed in the NPRM, which arguably exclude K-12 educational or library networks that share services or capacity to state or local government entities, or which provide points of presence to local governments, businesses, libraries, and non-profit organizations in underserved rural areas, would discourage joint networking arrangements and work against the telecommunications infrastructure deployment efforts of Washington State.

As discussed below, DIS urges the Commission to reject any eligibility criteria for educational tariffing that work as a disincentive to schools and other government entities

¹ DIS is a cabinet-level Washington State agency responsible for providing computing and telecommunications services to state government and developing policies that promote the effective use of information technology within Washington State government. Among its numerous activities, DIS provides staff support to the state Information Services Board, the Governors Telecommunications Policy Coordination Task Force, and the K-20 Educational Telecommunications Network. These are discussed below.

to share publicly-owned infrastructure and avoid unnecessary and costly duplication of systems and services, or which prohibit discounts for schools and libraries that serve as points of presence to citizens and businesses in underserved rural communities.

Alternatively, if the Commission finds itself constrained by the Act from establishing broader eligibility criteria, it requests the Commission to urge Congress to revisit this issue and amend the Act accordingly.

1. Background.

Section 254(h)(1)(B) of the Telecommunications Act of 1996 (the Act) specifies that elementary schools, secondary schools, and libraries are entitled to universal service subsidies for communications services if the requested services will be used “for educational purposes.” However, Section 254(h)(3) states that “telecommunications services and network capacity” provided to schools and libraries through universal service support mechanisms “may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.” This arguably bars from Universal Service Fund (USF) subsidies any school or library that makes excess capacity available to government agencies, local non-profit organizations, or others at cost or for a fee.

In its NPRM, the Commission requested comment on “whether this provision will affect the ability of schools and libraries to receive universal service support if they are sharing a network with parties who are not eligible to receive support and what

mechanisms could ensure that the provisions do not discourage partnerships between schools and libraries and their communities.”²

Several parties commented that the provision would indeed affect their ability to receive support. The Maryland Library Project Sailor, for example, noted that libraries have a need to “mesh smoothly with each other and with state administrative agencies.”³ It asked the Commission to “acknowledge that library cooperation with non-library organizations should not disqualify libraries from USF support eligibility and allow libraries to obtain USF supported services through cooperative administrative mechanisms such as Sailor and state administrative channels.”⁴ The Instructional Telecommunications Council (ITC) asserted that schools can no longer “afford to remain an isolated island of information,” and that “[s]tudents will gain from reaching out to other students, to other cultures, to businesses and civic organizations.”⁵ It recommended that the eligibility criteria of the Act be broadly interpreted to include post-secondary schools.⁶ The Washington Utilities and Transportation Commission observed that the Act’s eligibility criteria may limit or prohibit outright the demand aggregation options available to schools and libraries in rural areas.⁷

As discussed below, DIS agrees with these commenters that the narrow eligibility criteria set forth in the Act will potentially affect the ability of schools and libraries to participate in network sharing arrangements. In DIS’ view, any eligibility criteria that

² NPRM, paras. 84-85.

³ Comments of Sailor, p. 11.

⁴ Id., p. 1.

⁵ Comments of Instructional Telecommunications Council, pp. 2-3.

⁶ Id.

⁷ Comments of the Washington Utilities and Transportation Commission, p. 16.

rewards public entities for refusing to share their telecommunications and information resources with other public entities, or which undercuts a state's economic development goals by excluding from eligibility those entities that provide access to private parties in rural or underserved areas, is unsound as a matter of public policy. In Washington State specifically, such criteria potentially undercuts the state's significant efforts to promote network sharing arrangements among state and local governments, schools, libraries, and others, and frustrates state initiatives to promote deployment of advanced telecommunications infrastructure to underserved rural areas by providing local points of presence on public networks.

2. Washington State's Efforts in Promoting Infrastructure Sharing.

In recent years, Washington State has been committed to developing sound policies to guide its acquisition and use of information and telecommunications services. State and local government purchases of telecommunications technologies and services exceed \$600 million annually in Washington State, and the Governor and Legislature have made it a priority to encourage infrastructure sharing among state agencies and local governments, and to avoid unnecessary and costly duplication of facilities and networks. These efforts include the following:

- In 1992, the Legislature created the Information Services Board, a 13-member panel including representatives of the executive, legislative and judicial branches, to coordinate agency information technology acquisitions, establish technical standards, and work to "maximize opportunities to exchange and share data and information...."⁸

⁸ Rev. Code of Wash. 43.105.017.

- In 1993, DIS published the first State Information Technology Strategic Plan, in which it reported that “isolated information systems” in the many separate state and local government entities resulted in “suboptimal use of money, time, and talent collectively applied in responding to the state’s opportunities and challenges.” It called for state agencies to work together to develop “a statewide infrastructure leading to improved communications and computing systems that can be shared and upgraded.”⁹
- In 1994, Governor Mike Lowry issued Executive Order 94-10, establishing the Governor’s Telecommunications Policy Coordination Task Force to “[provide] an assessment of the role ... and the use of telecommunications technology in state government to provide services more effectively and to promote more efficient use of public resources.” This year the Task Force published its first report in which it stated:

Inter-agency coordination is a matter of critical importance as the state undertakes to build an integrated, seamless infrastructure to facilitate the growing need for networked communication among government entities at all levels and between government and the public. The Task Force has found that where agencies have declined to work together under a common planning umbrella, they will duplicate costly facilities and services at great expense to taxpayers. ... The results of such lack of coordination are costly, inefficient, and irresponsible.¹⁰

- In 1996, the Legislature demonstrated its commitment to shared use of state resources when it rejected proposals for separate higher education and K-12 telecommunications networks. Instead, it authorized funding for a K-20 educational

⁹ DIS Policy and Regulation Division, State of Washington Strategic Information Technology Plan, January 1993, pp. 4-5.

¹⁰ First Report of the Governor’s Telecommunications Policy Coordination Task Force, April 1996, p. 84.

telecommunications network that will eventually serve public and private universities, community and technical colleges, K-12 schools, libraries, and other entities. The Legislature found that “in order to facilitate lifelong learning, educational technology systems must be coordinated among all educational sectors, with the other entities of federal, state, and local government, and be readily accessible to the general population of the state. It is the intent of the legislature to make maximum use of a common telecommunications backbone network in building and expanding education technology systems. Therefore, coordinated policy and planning to ensure program quality, interoperability and efficient service delivery are the highest priority of the legislature.”¹¹

3. Access to Educational Networks in Rural Areas.

State policy regarding the shared use of telecommunications resources is not limited only to sharing among state government entities. Washington, like many other states, contains many small and relatively isolated rural communities whose economies may be insufficient to attract private providers of telecommunications services. In Washington, policy makers have explored several for connecting these communities to the larger information infrastructure, including strategies to aggregate demand for private services and to allow local businesses, governments, non-profit organizations, and private citizens in these communities access to state-owned infrastructure. The Governor’s Telecommunications Policy Coordination Task Force found that

direct [state] participation in rural infrastructure is appropriate in those limited circumstances where it furthers statewide strategic goals *and* where the state has traditionally funded the services offered. For example, where traditionally the state

funded educational or medical services can be provided more cost effectively using advanced telecommunications networks, state funding is appropriate. Moreover, where such networks can be utilized using not just by schools but by the communities they serve -- libraries, local governments, private companies, non-profit organizations, and individual citizens -- the Task Force believes that some mechanism for network access should be applied.

The Washington Legislature, too, has identified the potential of state educational networks to serve as points of presence in small or isolated communities. In creating the K-20 Educational Telecommunications Network this year, it gave authority to the network's governing committee to approve network access to "public libraries, state and local governments, community resource centers, and the private sector."

4. The Commission Should Avoid Limiting Eligibility For Educational Discounts Based on Shared Use of Network Services or Capacity.

Finding resources sufficient to build infrastructure to schools, libraries, and rural communities should not be limited to proposing subsidies from telecommunications providers and their paying customers. It also requires a hard look at opportunities for public-private partnerships, efficiencies through coordinated planning, leveraged purchasing, and shared use of resources.

Section 254(a) make clear Congress's intent to develop policies to promote access to advanced services in "all regions of the Nation," including "rural, insular, and high cost areas," and to schools and classrooms, health care providers, and libraries. Yet the Act's exclusion from USF eligibility for any school or library whose network services or capacity are "sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value" singles out USF subsidies as the preferred source of infrastructure funding, potentially discouraging schools, libraries, and governments from

seeking efficiencies that result from partnerships or shared use of network services or capacity. This promotes waste of scarce resources and duplication of services, rewards inefficiency, and potentially undermines efforts -- such as those in Washington State -- to bring affordable telecommunications services to all parts of the state by identifying potential efficiencies in the purchase or use of advanced telecommunications services, through shared use of infrastructure or through aggregation of public and private demand in rural areas.

DIS does not argue that USF subsidies to schools and libraries are inappropriate. It is aware of the lack of resources available to most schools and libraries for advanced telecommunications services.¹² However, it believes that the need for universal service subsidies must be balanced against the potential costs to telecommunications consumers, the effect of such policies on competition in the local telecommunications market, the effect on the ability of other government entities to leverage their purchasing of advanced services from private vendors, and, perhaps most importantly, *the effect on the ability or willingness of schools and libraries to seek efficiencies in the deployment of advanced services.*¹³ USF eligibility criteria that exclude schools and libraries that seek sharing arrangements or partnerships fail to balance these considerations. Federal law and Commission rules should reward sharing arrangements, not discourage them.

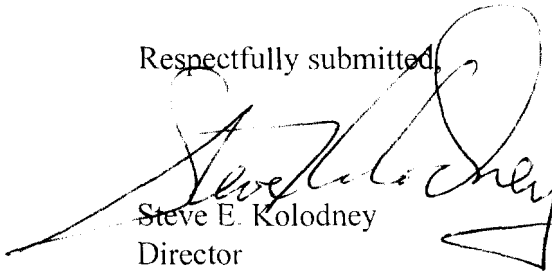
¹² See, e.g., Comments of Washington State Library; Comments of the Washington State Superintendent of Public Instruction.

¹³ The Governor's Telecommunications Policy Coordination Task Force has observed: "[G]overnment and schools are a large and desirable market for telecommunications service providers, and as such have substantial leveraging power in bidding for services. Where monopolist service providers are further entrenched through subsidies, they take away the leverage of government and schools as customers, and in turn remove the companies' incentives to provide better service at lower prices." Report, p. 88.

V. Conclusion.

DIS urges the Commission to avoid establishing eligibility criteria for educational discounts for schools and libraries that exclude schools and libraries which have sharing arrangements with other state agencies or local governments, or which serve as points of presence to citizens and businesses in underserved rural communities. If the Commission finds itself constrained by the Act from establishing broader eligibility criteria, it requests the Commission to urge Congress to revisit this issue and amend the Act accordingly.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve E. Kolodney", is written over the typed name and title.

Steve E. Kolodney

Director

Department of Information Services

P.O. Box 42445

Olympia, WA 98504-2445

May 6, 1995